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ABSTRACT

A number of recent studies represent a growing consensus among many religious and educational groups about the constitutional and educational role of religion in the public schools. This pamphlet is designed to build on these agreements and to encourage communities to find common ground when they are divided. The pamphlet presents 15 questions and answers that are intended to help parents understand the religious liberty rights of students and the appropriate role for religion in the public school curriculum. The questions and answers provide general information on the subject of religious expression and practices in schools. The answers are based on First Amendment religious liberty principles as currently interpreted by the courts and agreed to by a wide range of religious and educational organizations. The pamphlet cautions that the law alone cannot answer every question and advises that parents in each community must work with school officials to do not only what is constitutional, but also what is "right" for all citizens. It points out that the religious liberty principles of the First Amendment provide the civic framework within which citizens are able to debate differences, to understand one another, and to forge school policies that serve the common good in public education. (BT)

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A Parent's Guide to Religion in the Public Schools.

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The National Congress
of Parents and Teachers

The Freedom Forum
First Amendment Center
AT VANDERBILT UNIVERSITY

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A Parent's Guide to Religion in the Public Schools

The National Congress
of Parents and Teachers

THE FREEDOM FORUM
FIRST AMENDMENT CENTER
AT VANDERBILT UNIVERSITY

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Congress shall make no law
respecting an establishment
of religion, or prohibiting
the free exercise thereof;
or abridging the
freedom of speech,
or of the press;
or the right of the people
peaceably to assemble,
and to petition the Government
for a redress of grievances.

—First Amendment
United States Constitution

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Parents are recognized as having the primary responsibility for the upbringing of their children, including education. For this reason, parents need to be fully informed about school policies and practices, including all issues concerning religion and religious liberty in public education.

The following questions and answers are intended to help parents understand the religious liberty rights of students and the appropriate role for religion in the public school curriculum. A number of recent documents represent a growing consensus among many religious and educational groups about the constitutional and educational role of religion in public schools.[1] This pamphlet is designed to build on these agreements and to encourage communities to find common ground when they are divided.

The following questions and answers provide general information on the subject of religious expression and practices in schools. The answers are based on First Amendment religious liberty principles as currently interpreted by the courts and agreed to by a wide range of religious and educational organizations. For a more in-depth examination of the issues, parents should consult the guide listed at the end of this publication. If parents have specific legal questions, the services of a qualified attorney should be sought.

Keep in mind, however, that the law alone cannot answer every question. Parents in each community must work with school officials to do not only what is constitutional, but also what is *right* for all citizens. The religious liberty principles of the First Amendment provide the civic framework within which we are able to debate our differences, to understand one another, and to forge school policies that serve the common good in public education.

Finding Common Ground

1 In our community we want to work together to address religion in schools issues. How do we go about finding common ground?

Parents and school officials in many local communities have had success finding common ground using the following strategies:

Include all of the stakeholders.
Because public schools belong to all citizens, they must model the democratic process and constitutional principles in the development of policies and curricula. Policy decisions by officials or governing bodies should be made only after appropriate involvement of those affected by the decisions and with due consideration of those holding dissenting views.

Listen to all sides.
If we are to build trust and to truly listen to one another, school officials must acknowledge what is valid about criticism of school policies and practices, particularly concerning the treatment of religion and religious perspectives. At the same time, parents with deep religious convictions need to acknowledge that the vast majority of public school administrators and teachers do not intend to be hostile to religion and want to be fair in their treatment of parents and students.

Work for comprehensive policies.
Many school districts contribute to confusion and distrust by having no policies concerning many of the issues addressed in this pamphlet. By working with parents to develop comprehensive policies, schools demonstrate the importance of taking religious liberty seriously.

Be pro-active.
School districts unprepared for controversy fare poorly when a conflict arises. Where there are no policies (or policies are not known or supported by parents), there is a much greater likelihood of lawsuits, shouting matches at school board meetings, and polarization in the community. A pro-active approach takes seriously the importance of articulating the proper role for religion and religious perspectives in the public schools. The resulting policies and practices create a climate of trust in the community and demonstrate the public schools' active commitment to the guiding principles of our democracy.

Commit to civil debate.
Conflict and debate are vital in a democracy. Yet, if we are going to live with our deepest differences, then *how* we debate, and not only *what* we debate, is critical. Personal attacks, name-calling, ridicule, and similar tactics destroy the fabric of our society and undermine the educational mission of our schools. All parties should treat one another with civility and respect and should strive to be accurate and fair. Through constructive dialogue, we have much to learn from one another.

Religious Liberty and Public Schools

2 Is there general agreement on how religious faith should be treated in public schools under the First Amendment?

Yes. In a recent statement of principles, a broad range of religious and educational groups agreed to the following description of religious liberty and public schools within the First Amendment framework:

> Public schools may not inculcate nor inhibit religion. They must be places where religion and religious conviction are treated with fairness and respect.
>
> Public schools uphold the First Amendment when they protect the religious liberty rights of students of all faiths or none. Schools demonstrate fairness when they ensure that the curriculum includes study *about* religion, where appropriate, as an important part of a complete education.[2]

Student Religious Expression

3 Does this mean that students may express their faith while in school?

Yes. Schools should respect the right of students to engage in religious activity and discussion.

Generally, individual students are free to pray, read their scriptures, discuss their faith, and invite others to join their particular religious group. Only if a student's behavior is disruptive or coercive should it be prohibited. No student should be allowed to harass or pressure others in a public school setting.

If doing so is relevant to the subject under consideration and meets the requirements of the assignment, students also have the right to express their religious views during a class discussion or as part of a written assignment or art activity.

Student Prayer

4 May students pray together in public schools?

Yes. Students are free to pray alone or in groups, as long as the activity is not disruptive and does not infringe upon the rights of others. These activities must be truly voluntary and student-initiated. For example, students are permitted to gather around the flagpole for prayer before school begins, as long as the event is not sponsored by the school and other students are not pressured to attend. Students do not have a right to force a captive audience to participate in religious exercises.

5 Didn't the Supreme Court rule against student prayer in public schools?

No. The Supreme Court has struck down *state-sponsored* or *state-organized* prayer in public schools. The Court has interpreted the First Amendment to mean that government must be *neutral* among religions and between religion and nonreligion. This means that school officials may not organize, mandate, or participate in student religious activities, including prayer. A moment of silence, however, may be led by school officials, as long as it does not promote prayer over other types of quiet contemplation.

6 Does this mean that students may offer prayers at graduation ceremonies?

Not necessarily. Lower courts are divided about whether a student may offer prayers at graduation exercises. Parents should seek legal advice about what rules apply in their state.

Some schools create a "free speech forum" at school-sponsored events, during which time students are free to express themselves religiously or otherwise. Such a forum, however, would have to be open to all kinds of speech, including speech critical of religion or the school.

Baccalaureate Services

7 What about baccalaureate services?

Although a public school may not sponsor religious baccalaureate ceremonies, parents, faith groups, and other community organizations are free to sponsor such services for students who wish to attend. The school may announce the baccalaureate in the same way it announces other community events. If the school allows community groups to rent or otherwise use its facilities after hours, then a privately sponsored baccalaureate may be held on campus under the same terms offered to any private group.

Teaching about Religion

8 Is it constitutional to teach about religion in public schools?

Yes. The Supreme Court has indicated many times that teaching about religion, as distinguished from religious indoctrination, is an important part of a complete education. The public school's approach to religion in the curriculum must be academic, not devotional.

Study about religion belongs in the curriculum wherever it naturally arises. On the secondary level, the social studies, literature and the arts offer many opportunities for the inclusion of information about religions—their ideas and practices. On the elementary level, natural opportunities arise in discussions of the family and community life and in instruction about festivals and different cultures.

Religion may also be studied in special courses. Some secondary schools, for example, offer electives in "World Religions," "Bible as/in History or Literature," and "Religion in America."

Religious Holidays

9 How should religious holidays be treated in the schools?

Religious holidays offer opportunities to teach about religion in elementary and secondary schools. Teaching about religious holidays, which is permissible, is different from celebrating religious holidays, which is not. Study of holidays serves academic goals of educating students about history and cultures as well as about the traditions of particular religions.

The use of religious symbols as examples of religious or cultural heritage is permissible as a teaching aid or resource. Religious symbols should only be displayed on a temporary basis as part of the academic program.

Sacred music may be sung or played as part of a school's academic program. School concerts that present a variety of selections may include religious music. The use of music, art, drama, or literature with religious themes is permissible if it serves a sound educational goal in the curriculum, but not if used as a vehicle for promoting religious belief.

Excusal Requests

10 May students be excused from parts of the curriculum for religious reasons?

Whenever possible, school officials should try to accommodate the requests of parents and students for excusal from classroom discussions or activities for religious reasons. If focused on a specific discussion, assignment, or activity, such requests should be routinely granted in order to strike a balance between the student's religious freedom and the school's interest in providing a well-rounded education.

Under the Religious Freedom Restoration Act,[3] if it is proved that particular lessons substantially burden a student's free exercise of religion and if the school cannot prove a compelling interest in requiring attendance, the school would be legally required to excuse the student.

Student Religious Clubs

11 May students form religious clubs in public schools?

Under the federal Equal Access Act,[4] secondary public schools receiving federal funds must allow students to form religious clubs if the school allows other noncurriculum-related clubs to meet during noninstructional time. "Noncurriculum-related" means any club not directly related to the courses offered by the school. Student religious clubs may have access to school facilities and media on the same basis as other noncurriculum-related student clubs.

The Equal Access Act protects the rights of students to form religious clubs. Outside adults may not direct or regularly attend meetings of such clubs. Teachers may be present at religious club meetings as monitors, but they may not participate in club activities.

Public schools are free to prohibit any club activities that are illegal or that would cause substantial disruption of the school.[5]

Student Religious Garb

12 May students wear religious garb and display religious symbols in public schools?

Yes. Students who must wear religious garb such as head scarves or yarmulkes should be permitted to do so in school. Students may also display religious messages on clothing to the same extent that other messages are permitted.

Distribution of Religious Literature

13 May students distribute religious literature in the schools?

Generally, students have a right to distribute religious literature on public school campuses subject to reasonable time, place and manner restrictions imposed by the school. This means that the school may specify at what times the distribution may occur (e.g., lunch hour or before or after classes begin), where it may occur (e.g., outside the school office), and how it may occur (e.g., from fixed locations as opposed to roving distribution). These restrictions should be reasonable and must apply evenly to all non-school student literature.

Public schools may prohibit the distribution of some literature altogether. Some examples would be materials that are obscene, defamatory, or disruptive of the educational environment.

Released Time

14 May students be released for off-campus religious instruction during the school day?

Yes. The Supreme Court has long recognized that public schools may choose to create off-campus, released-time programs as a means of accommodating the needs of religious students and parents. The schools may not encourage or discourage participation or penalize students who do not attend.

Character Education

15 What is the relationship between religion and character education in public schools?

Parents are the first and most important moral educators of their children. Thus public schools should develop character education programs only in close partnership with parents and the community. Local communities need to work together to identify the core moral and civic virtues that they wish to be taught and modeled in all aspects of school life.[6]

In public schools, where teachers may neither promote nor denigrate religion, the core moral and civic values agreed to in the community may be taught if done so without religious indoctrination. At the same time, core values should not be taught in such a way as to suggest that religious authority is unnecessary or unimportant. Sound character education programs affirm the value of religious and philosophical commitments and avoid any suggestion that morality is simply a matter of individual choice without reference to absolute truth.

Endnotes

[1] One of these documents is a directive sent to school superintendents from the U.S. Department of Education. Copies of the U.S. Department of Education guidelines may be obtained by calling 1-800-USA-LEARN. Another document, *Religion in the Public Schools: A Joint Statement of Current Law*, has been endorsed by a broad range of religious organizations. It is available by writing: "Religion in the Public Schools" 15 East 84th St., Suite 501, New York, NY 10028.

[2] For free copies of *Religious Liberty, Public Education, and the Future of American Democracy: A Statement of Principles*, contact The Freedom Forum First Amendment Center at Vanderbilt University.

[3] See 42 United States Code Section 2000bb to 2000bb-4.

[4] See 20 United States Code Section 4071 to 4074.

[5] For comprehensive guidelines on how to interpret the Equal Access Act, consult chapter 11 of *Finding Common Ground: A First Amendment Guide to Religion and Public Education*, available from The Freedom Forum First Amendment Center.

[6] The Character Education Partnership provides complete information on how to start a character education program and a clearinghouse of character education resources. Contact the Character Education Partnership at 809 Franklin St., Alexandria, VA 22314, Telephone: (800)988-8081.

The National PTA encourages its nearly 7 million members to be involved in key child education, health, and welfare issues. The organization serves as an advocate for children and families in schools, the community, and before government agencies.

The Freedom Forum First Amendment Center at Vanderbilt University is an independent operating program of The Freedom Forum. The Center was established by The Freedom Forum, one of the nation's largest foundations, on Dec. 15, 1991, the 200th anniversary of the ratification of the Bill of Rights to the U.S. Constitution.

The First Amendment Center's mission is to foster a better public understanding of and appreciation for First Amendment rights and values, including freedom of religion, free speech and press, and the right to petition government and to assemble peacefully.

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Resource Guide

For in-depth discussion of the [illegible]
for students, the Equal Access Act [illegible]
curriculum and other issues addressed [illegible]
pamphlet see *Finding Common Ground: A First Amendment Guide to Religion and Public Education*.
This publication is available at cost. Send requests and
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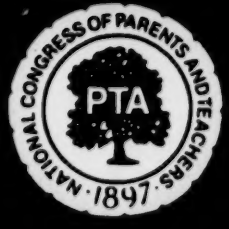

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